

REMARKS

This responds to the Office Action mailed on April 26, 2005, and the references cited therewith.

No claims are amended or cancelled. Claims 1-32 remain pending in this application.

§102 Rejection of the Claims

Claims 1-14 and 16-32 were rejected under 35 U.S.C. § 102(a) for anticipation by Truwit (U.S. Patent No. 5,993,463). Applicant respectfully traverses the rejection for at least the following reasons.

The rejection states that Truwit ('463) anticipates all claimed features of claims 1-14 and 16-32. Truwit is cited in the present Office Action as prior art under U.S.C. § 102(a). Truwit issued on November 30, 1999, which is less than one year before the April 7, 2000 priority date of the present application. The 5,993,463 Truwit reference used in the present rejection shows Charles L. Truwit as the sole named inventor. Charles L. Truwit is also listed as one of five inventors in the present application.

MPEP § 2132.01 states that "Applicant's disclosure of his or her own work within the year before the application filing date cannot be used against him or her under 35 U.S.C. 102(a). *In re Katz*, 687 F.2d 450, 215 USPQ 14 (CCPA 1982)." MPEP § 2132.01 goes on to state that "where the applicant is one of the co-authors of a publication cited against his or her application, the publication may be removed as a reference by the filing of affidavits made out by the other authors establishing that the relevant portions of the publication originated with, or were obtained from, applicant."

In the present case, Mr. Truwit was the sole author of the '463 patent. Applicant respectfully submits that as a result, no affidavit is needed to establish a portion of the '463 patent that was obtained from Mr. Truwit.

Because the '463 patent is Mr. Truwit's own work, under 35 U.S.C. § 102(a) and MPEP § 2132.01, the '463 patent is not prior art with respect to the present application. Reconsideration and withdrawal of the rejection is respectfully requested with respect to claims 1-14 and 16-32.

§103 Rejection of the Claims

Claim 15 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Truwit as applied to claim 13 above, and further in view of Lee et al. (U.S. Patent No. 3,893,449). As stated above under 35 U.S.C. § 102(a) discussion, Applicant respectfully submits that Truwit is not prior art with respect to the present application. The remaining reference of Lee fails to disclose all elements of Applicant's claims, therefore a USC § 103(a) rejection is not supported by the references. Reconsideration and withdrawal of the rejection is respectfully requested with respect to claim 15.

Although applicant submits that the Truwit reference is not prior art with respect to the present application, Applicant further submits that the present claims are distinguishable over Truwit, and reserves the right to present distinguishing arguments at a later date.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6944 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.


Respectfully submitted,

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By their Representatives,

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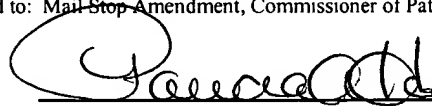
Date 7-26-05

By 
David C. Peterson
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 26th day of July, 2005.

PATRICIA A. HULTMAN

Name



Signature